

Serial No.: 09/438,206

Confirmation No.: 9018

Filed: November 12, 1999

For: METHODS AND COMPOSITIONS FOR TREATING MAMMALIAN SPINAL CORD INJURIES

Remarks

The Office Action mailed November 20, 2008, has been received and reviewed. Claims 47-49 having been canceled, without prejudice, the pending claims are claims 23-30, 39, 40, and 43-46. Applicants submit that the cancellation of claim 47-49 raises no new issues for search or examination. It is respectfully submitted that this amendment fully addresses the rejections remaining in the instant application and places the application in condition for allowance. The reconsideration and withdrawal of the rejections is respectfully requested.

Examiner Interview

A telephonic interview was held between Primary Patent Examiner Hui and Applicants' Representative, Nancy Johnson, on December 9, 2008. Examiner Hui is thanked for the courtesy of this interview.

With this interview, Applicants' representative requested clarification as to which claims are included in the rejection under 35 U.S.C. 112, first paragraph, on page 2 of the Office Action mailed November 20, 2008. Applicants' representative summarized as follows. The cover page of the Office Action mailed November 20, 2008, states that claims 23-30, 39, 40, and 43-46 are allowed and that claims 47-49 are rejected. However, the rejection of the claims under 35 U.S.C. 112, first paragraph, states that claims 23-30, 39, 40, and 43-45 are rejected, as "(t)he limitation 'the composition does not contain benzyl alcohol' recited in claims 47-49 is not supported by the originally filed specification and claims" (page 2, Office Action mailed November 20, 2008). Claims 47 and 48 are independent claims, and claim 49 depends from both claims 47 and 48. None of claims 23-30, 39, 40, or 43-45 contain the recitation "the composition does not contain benzyl alcohol" and none of these claims depend from claims 47-49. Thus, Applicants' representative requested clarification as to which claims are rejected under 35 U.S.C. 112, first paragraph.

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With review, Primary Examiner Hui provided the following clarification. Claims 47-49 are rejected under 35 U.S.C. 112, first paragraph. The Office Action mailed November 20, 2008, incorrectly states that claims 23-30, 39, 40, and 43-45 are rejected under 35 U.S.C. 112, first paragraph.

Applicants respectfully request clarification of the record to reflect that claims 47-49 are rejected under 35 U.S.C. 112, first paragraph, in the Office Action mailed November 20, 2008.

The 35 U.S.C. §112, First Paragraph, Rejection

The Examiner has rejected claims 47-49 (mistakenly identified as claims 23-30, 39-40, and 43-46) under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement with the recitation "the composition does not contain benzyl alcohol." Applicants respectfully submit that this rejection is moot in view of the cancellation of claims 47-49.

The 35 U.S.C. §103 Rejection

The Examiner has rejected claims 47-49 under 35 U.S.C. 103(a) as being unpatentable over Shulman (U.S. Patent 4,599,354) and Edwards (U.S. Patent 4,369,769) as applied to claims 22-29, 38, 39 and 44, and further in view of Potter. Applicants respectfully submit that this rejection is moot in view of the cancellation of claims 47-49.

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Summary

It is respectfully submitted that the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives at the telephone number listed below if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

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January 16, 2009
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CERTIFICATE UNDER 37 CFR §1.8:

The undersigned hereby certifies that this paper is being transmitted via the U.S. Patent and Trademark Office electronic filing system in accordance with 37 CFR §1.6(a)(4) to the Patent and Trademark Office addressed to the Commissioner for Patents, Mail Stop AF, P.O. Box 1450, Alexandria, VA 22313-1450, on this 16 day of January, 2009.

By: Sandy Truehart
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